

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. TYSON QUIGLEY, a/k/a Tyson Stands, and ERWIN WHITE LANCE, Defendants.	3:23-CR-30022-RAL ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING MOTION TO DISMISS
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Defendant Erwin White Lance filed a motion to dismiss Count III of the Superseding Indictment, Doc. 92, asserting that the first-degree burglary charge in Count I does not qualify as a predicate “crime of violence.” Tyson Quigley, a/k/a Tyson Stands, joined White Lance’s motion to dismiss. Doc. 107.

On November 14, 2023, Magistrate Judge Mark A. Moreno issued a report, Doc. 115, recommending that the motions to dismiss, Docs. 92 and 107, be denied. Originally, the parties had fourteen calendar days to file objections to the Report and Recommendation. Doc. 115 at 11. Judge Moreno later entered an order extending the deadline to file objections to December 5, 2023. Doc. 119. White Lance passed away on December 1, 2023, and this Court subsequently dismissed the Superseding Indictment as it pertained to White Lance. Doc. 128. In light of White Lance’s death, Quigley moved to extend the deadline to file objections a second time. Doc. 123. This Court granted Quigley’s motion and enlarged the deadline for Quigley to file objections to December 11, 2023. Doc. 124.

This Court reviews a report and recommendation under the statutory standards found in 28 U.S.C. § 636(b)(1), which provides in relevant part that “[a] judge of the [district] court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” “In the absence of an objection, the district court is not required to ‘give any more consideration to the magistrate’s report than the Court considers appropriate.’” United States v. Murillo-Figueroa, 862 F. Supp. 2d 863, 866 (N.D. Iowa 2012) (quoting Thomas v. Arn, 474 U.S. 140, 150 (1983)).

Neither Quigley nor the United States objected to the Report and Recommendation, and the time for doing so has now passed. Accordingly, this Court has reviewed the Report and Recommendation under a clearly erroneous standard of review. See Grinder v. Gammon, 73 F.3d 793, 795 (8th Cir.1996) (per curiam) (explaining that when no objections are filed and the time for filing objections has expired, the district court “would only have to review the findings of the magistrate judge for clear error”). Finding no clear error, this Court adopts the Report and Recommendation.

For the foregoing reasons, it is hereby

ORDERED that the Report and Recommendation for Disposition of Motion to Dismiss Count III of Superseding Indictment, Doc. 115, is adopted. It is further

ORDERED that the Motion to Dismiss, Doc. 92, which Tyson Quigley joined, Doc. 107, is denied.

DATED this 28th day of December, 2023.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE